



## ILLINOIS COMMERCE COMMISSION

---

August 17, 2005

The Department of Transportation of the State of Illinois, for and in behalf of  
the People of the State of Illinois,  
Petitioner,

vs.

BNSF Railway Company, f/k/a Burlington Northern Santa Fe Railway  
Company,  
Respondent,

Petition for approval of the taking or damaging of certain property in  
McDonough County, Illinois by exercising the right of eminent domain. Parcel  
No. 409U026PE.

Mr. Stanley L. Morris  
Quinn, Johnston, Henderson  
& Pretorius, Chartered  
205 South Fifth Street, Suite 900  
Springfield, IL 62701

Dear Mr. Morris:

Receipt is acknowledged of the original and three (3) copies of the Petition filed August 15, 2005  
in the above matter.

**All future correspondence/pleadings should be filed with an original and two (2) copies  
and addressed to: Mr. Dave Lazarides, Acting Director of Processing, Illinois Commerce  
Commission, 527 East Capitol Avenue, Springfield, IL 62701 or you may file the original  
electronically through E-docket if you have an account. To apply for an account, please log on to  
[www.icc.state.il.us](http://www.icc.state.il.us) and apply for an E-docket account.**

Processing and Information Section

KI

Cc: Mr. Victor A. Modeer, IDOT  
Ms. Ellen Schanzle-Haskins, IDOT  
Mr. Michael L. Sazdanoff, attorney BNSF  
Mr. W. Douglas Werner, BNSF  
Mr. Mark Leemon, BNSF  
Mr. Joshua K. Richardson, McDonough County

ORIGINAL

STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

THE DEPARTMENT OF TRANSPORTATION  
OF THE STATE OF ILLINOIS, for and in  
behalf of the People of the State of Illinois,

Petitioner,

vs.

BNSF RAILWAY COMPANY, f/k/a  
BURLINGTON NORTHERN SANTA FE  
RAILWAY COMPANY,

Respondent.

No.

705-00 47

(Parcel 409U026PE)

**PETITION FOR APPROVAL TO TAKE PROPERTY**

NOW COMES THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS, Petitioner, by LISA MADIGAN, ATTORNEY GENERAL and STANLEY L. MORRIS, Special Assistant Attorney General, and for its Petition for Approval to Take Property states:

1. Petitioner has engaged in the construction, operation and maintenance of FAP Route 315 (Ill. Route 336), a State highway under the control and jurisdiction of Petitioner, in McDonough County, Illinois, under and by virtue of the Illinois Highway Code (605 ILCS 5/2-101 through 5/2-220 and 5/4-101 through 5/4-511). The lands and premises hereinafter described and legally described as set out in Exhibit "A" attached hereto and incorporated by this reference, are required for Petitioner's construction of non-Freeway FAP Route 315, Section 55-2, McDonough County, Illinois (hereafter the "Project").

DOCKETED

AUG 17 2005

2. Respondent, BNSF RAILWAY COMPANY, f/k/a BURLINGTON NORTHERN SANTA FE RAILWAY COMPANY ("BNSF"), is a rail carrier as defined in the Illinois Commercial Transportation Law (625 ILCS 5/18c-7101 et seq.), is engaged as a common carrier by railroad within Illinois and is subject to the jurisdiction of the Illinois Commerce Commission.

3. The land, rights, and other property hereinafter described are private property and the Respondent appears to own, have an interest in, or claim to have some interest therein.

4. The Project is a public work, is for public use and constitutes a public purpose, in McDonough County, Illinois; it is in the public convenience and necessity that the Petitioner have and acquire a permanent easement in Parcel No. 409U026PE, more particularly described in Exhibit "A" attached hereto. Said parcel is located approximately 1-3/4 miles west of Macomb, Illinois, between Gold Hills Road and Township Road 226.

5. The compensation to be paid by the Petitioner to the Respondent for this parcel or the interest therein or the form of conveyance cannot be agreed upon between the Petitioner and the Respondent and the Petitioner, therefore, is authorized, subject to the initial approval of the Illinois Commerce Commission, to proceed to acquire said lands, rights or other property through the exercise of the right of eminent domain under the Eminent Domain Laws of Illinois.

WHEREFORE, Petitioner prays the Illinois Commerce Commission enter an Order authorizing Petitioner to proceed with an action in eminent domain to acquire from Respondent, BNSF, a permanent easement in Parcel No. 409U026PE more particularly

described in attached Exhibit "A" in accordance with Article VII (735 ILCS 5/7-101 through 5/7-129) of the Illinois Code of Civil Procedure.

THE DEPARTMENT OF TRANSPORTATION,  
STATE OF ILLINOIS, Petitioner

LISA MADIGAN, ATTORNEY GENERAL

By: 

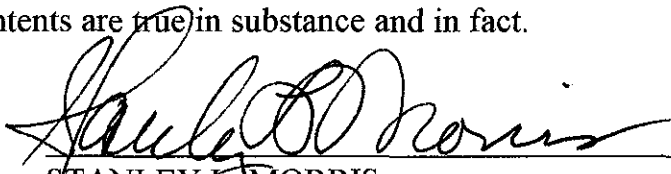
Stanley L. Morris

Special Assistant Attorney General


Stanley L. Morris  
Special Assistant Attorney General  
205 South Fifth Street, Suite 900  
Springfield, IL 62701  
Telephone: (217) 753-1133

STATE OF ILLINOIS                    )  
  )     SS  
COUNTY OF SANGAMON            )

I, STANLEY L. MORRIS, of lawful age and being first duly sworn, depose and say that I am a Special Assistant Attorney General for the State of Illinois, that I have read the above and foregoing Petition by me subscribed, have knowledge of the contents thereof and that on information and belief said contents are true in substance and in fact.

  
STANLEY L. MORRIS  
Special Assistant Attorney General

Subscribed and sworn to before me, a Notary Public, this 15<sup>th</sup> day of August, 2005.

  
Notary Public



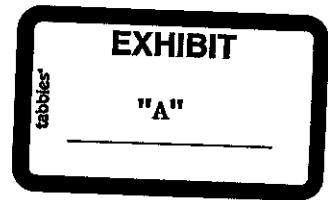
**PROOF OF SERVICE**

The undersigned certifies that on August 15, 2005, a copy of the foregoing document was deposited in the U.S. Mail, with postage prepaid, at Springfield, Illinois, plainly addressed to:

Burlington Northern & Santa Fe Railway Company  
c/o Stanbach Company  
Attn: Yvonne Worsham  
3017 Lou Menk Drive, Suite 100  
Ft. Worth, TX 76131

BNSF Railway Company,  
f/k/a Burlington Northern Santa Fe Railway Company  
c/o Michael Szdanoff, Registered Agent  
Kenneth J. Wysoglad & Associates  
118 South Clinton Street, Suite 700  
Chicago, IL 60661

*Pamela L. McConnell*



A part of the Southeast Quarter of Section 4, Township 5 North, Range 3 West of the Fourth Principal Meridian, McDonough County, Illinois, described as follows:

Commencing at the southeast corner of the Southeast Quarter of said Section 4; thence North 0 degrees 46 minutes 59 seconds East along the east line of the said Southeast Quarter, 1,355.92 feet to the southerly right-of-way line of the Burlington Northern and Santa Fe Railroad; thence South 72 degrees 32 minutes 14 seconds West along said southerly right-of-way line, 585.39 feet to the Point of Beginning, said point being 494.50 feet normally distant easterly from the proposed centerline of FAP Route 315; thence South 72 degrees 32 minutes 14 seconds West along said southerly right-of-way line, 1,147.01 feet to a point being 601.68 feet normally distant westerly from said centerline; thence North 17 degrees 27 minutes 46 seconds West, 100.00 feet to the northerly right-of-way line of said Burlington Northern and Santa Fe Railroad, said point being 632.68 feet normally distant westerly from said centerline; thence North 72 degrees 32 minutes 14 seconds East along said northerly right-of-way line, 1,147.01 feet to a point being 467.70 feet normally distant easterly from said centerline; thence South 17 degrees 27 minutes 46 seconds East, 100.00 feet to the Point of Beginning, containing 114,701 square feet, or 2.633 acres, more or less.

409U026PER1